

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case. No. 23-cr-36 (JRT/JFD)

Plaintiff,

v.

Kassius Orlando Benson,

**FOURTH AMENDED PRETRIAL
SCHEDULING AND LITIGATION
MANAGEMENT ORDER
IN A CRIMINAL CASE**

Defendant.

This matter is before the Court on a Motion by the Defendant, Kassius Orlando Benson, for an extension of time to file pretrial motions and to exclude time under the Speedy Trial Act. (Dkt. No. 36). The Motion is supported by a Statement of Facts (Dkt. No. 37) signed by Mr. Benson, stating that he agrees with the Motion. The Motion is hereby **GRANTED**. The Court now enters the following Fourth Amended Pretrial Scheduling and Litigation Management Order.

A grand jury of this District returned an indictment in this case, which was docketed on February 9, 2023 (Dkt. No. 1). The defendant, Mr. Benson, was arraigned before Magistrate Judge John Docherty on March 21, 2023 and pleaded not guilty to all counts of the Indictment. Mr. Benson appeared in person and was represented by counsel, Daniel Adkins, Esq. The United States was represented by Department of Justice Trial Attorneys Christopher Lin and Matthew Kluge, Tax Division.

Pursuant to the Due Process Protections Act, the Court advises the United States of its obligation to disclose to the defendant all exculpatory evidence as defined by *Brady v.*

Maryland, 373 U.S. 83 (1963) and its progeny, and **ORDERS** the United States to disclose all such evidence. Failure to do so in a timely manner may result in consequences, including, but not limited to, exclusion of evidence, adverse jury instructions, dismissal of charges, contempt proceedings, disciplinary action, or sanctions by the Court.

Pursuant to Local Rule 12.1 (copy attached), IT IS FURTHER HEREBY ORDERED that:

NON-DISPOSITIVE MOTIONS

The Court enters the following Order regarding the non-dispositive motions that are most frequently made in criminal cases in this District, recognizing that additional or different non-dispositive motions may be filed when, in the professional judgment of counsel, they are appropriate:

1. The United States must make all disclosures required by Federal Rule of Criminal Procedure 16(a) by **May 12, 2023**. D. Minn. LR 12.1(a)(1). This deadline has passed. To avoid the need for a recess of the motions hearing, the United States is requested to make, by **October 26, 2023**, all disclosures which will be required by Fed. R. Crim. P. 26.2 and 12(h).

2. The defense must make all disclosures required by Federal Rule of Criminal Procedure 16(b) by **July 5, 2023**. D. Minn. LR 12.1(a)(2). This deadline has passed.

3. On or before **July 5, 2023**, counsel for Mr. Benson and counsel for the United States must meet for a discovery conference. This deadline has passed. All motions asking

the Court to take any action concerning a discovery dispute must be filed on or before **October 9, 2023**.

4. The United States is ordered to preserve the rough notes of the law enforcement officers who participated in the investigation of this case.

5. The Court cannot require the parties to disclose witness statements before a witness testifies at a trial or hearing, but to avoid unnecessary delay of a hearing or trial, the Court urges the parties to voluntarily disclose witness statements one week before any hearing or trial.

6. Any motion seeking to have counsel participate in voir dire must be made at the appropriate time to the district court judge, the Honorable John R. Tunheim.

7. The United States shall advise Mr. Benson of its intent to introduce evidence at trial pursuant to Fed. R. Evid. 404(b) no later than 21 calendar days before trial.

8. Mr. Benson shall comply with the Federal Rules of Criminal Procedure requiring advance notice of the affirmative defenses of Alibi (Rule 12.1), Insanity/Mental Illness (Rule 12.2) and Public Authority (Rule 12.3). Such notices are due by **October 16, 2023**.

9. The parties must disclose the identity of any expert witness and make all expert disclosures required by Federal Rule of Criminal Procedure 16 no later than **28 days before trial**. The parties must disclose the identity of any expert who will testify in rebuttal of an expert witness and make all disclosures as to such expert required by Federal Rule of Criminal Procedure 16 no later than **14 days before trial**.

DISPOSITIVE MOTIONS

10. All motions, dispositive and non-dispositive, in the above-entitled case must be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **October 9, 2023**. D. Minn. LR 12.1(c)(1). **If there is no need for a motions hearing, either because no motions were filed, or for any other reason, both counsel must electronically file a letter saying so on or before October 9, 2023 or immediately upon the occurrence of the event making a motions hearing unnecessary if that event occurs after October 9, 2023.**

11. All motions must be accompanied by a meet and confer statement that is signed by the attorney filing the motion. The parties must meet and confer in a good faith attempt to narrow the issues presented by the motion, and to ensure that both parties are aware what witnesses and evidence they potentially will need at a motions hearing. The meet and confer process must be conducted either in person or by telephone. The meet and confer statement filed with the Court must state the date, time, manner (telephone or in-person), and outcome of the meet and confer process.

12. The Magistrate Judge will review all motions to suppress evidence for completeness and specificity when they are filed. All motions to suppress must specifically identify the item(s) of evidence whose suppression is sought, describe the facts that support the claim that such evidence was unlawfully obtained, and direct the Court's attention to the specific legal authorities, with citations, that support the remedy of suppression. The suppression motion must give the prosecution notice of what contentions they must be

prepared to meet at a motions hearing if one is held. Any suppression motion not meeting these standards will, in the Magistrate Judge's discretion, be recommended for dismissal for lack of specificity, or will be returned to the filing attorney with a direction to cure, within a specified time, particular shortcomings identified by the Magistrate Judge.

7. All responses to motions must be filed by **October 23, 2023**. D. Minn. LR 12.1(c)(2).

8. Any Notice of Intent to Call Witnesses must be filed by **October 23, 2023**. D. Minn. LR. 12.1(c)(3)(A).

9. Any Responsive Notice of Intent to Call Witnesses must be filed by **October 26, 2023**. D. Minn. LR 12.1(c)(3)(B).

10. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The United States makes timely disclosures and Defendant identifies in the motions particularized matters for which the Court finds an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

11. In the event a motions hearing is required, it will be held on **November 16, 2023 at 9:00 a.m. in Courtroom 6A**, 316 Robert St. N., Saint Paul, MN 55101.

TRIAL

a. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT, the trial and trial-related dates are:**

- i. Voir Dire, Jury Instructions, and Motion *in limine* shall be filed with District Judge Tunheim's chambers on or before **November 27, 2023**.
- ii. Trial will commence before District Judge Tunheim **at 9:00 a.m. on December 4, 2023** in Courtroom 14E of the Diana E. Murphy Courthouse, 300 S 4th St., Minneapolis, MN 55415.

b. IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Tunheim to confirm the new trial date.

12. For the reasons set forth in the Defendant's Statement of Facts (Dkt. No. 37) the period from **August 24, 2023 through October 9, 2023**, shall be excluded from the Speedy Trial Act computations in this case.

Dated: August 21, 2023

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge